
IOWA UTILITIES BOARD
Customer Service Section

Docket No.: FCU-2013-0004 (C-2012-0147)

Utility: Qwest Corporation d/b/a
CenturyLink, Bluetone
Communications, LLC., and
Huxley Communications
Cooperative

File Date/Due Date: November 28, 2012

Memo Date: April 26, 2013

TO: The Board

FROM: Tara Ganpat-Puffett, Larry Stevens, Mary Whitman

SUBJECT: Request for Formal Proceeding

I. Background

On March 7, 2013, the Office of Consumer Advocate (OCA) requested that the Iowa Utilities Board (IUB or Board) docket a rural call completion complaint (C-2012-0147) for formal investigation. The following chart identifies the facilities involved in this complaint, phone numbers, and carriers, if known:

Facilities	Telephone Number	Local Provider	Long Distance Provider
Mary Greeley Hospital	515-239-2011 voice (originating)	CenturyLink	CenturyLink
Huxley Family Physicians	515-597-2600 (terminating) 515-597-3945 fax (terminating)	Huxley Telephone Company	Not known

The complaint was filed with the IUB on November 28, 2012, by Lynae Millette, Clinic Administrator of Huxley Family Physicians (HFP), in Huxley, Iowa, alleging HFP has struggled for four years (at about this time of year when it gets cold and wet) with static on their telephone lines and telephone calls cutting off. The complaint also alleged that HFP was not receiving phone calls and faxes from Mary Greeley Hospital in Ames, Iowa. Ms. Millette stated that persons calling the HFP from other hospitals or clinics, as well as patients, have all complained about the phone lines. Ms. Millette specifically states that Mary Greeley Hospital reported on November 24, 2012, that Mary Greeley Hospital was unable to send

urgent test results via fax to HFP because it could not get through on the phone or fax lines. Also, Ms. Millette stated the problem not only affects the phone and fax, but also involves calls not getting to HFP's after-hours answering service. Ms. Millette noted the nature of the business is not forgiving and if HFP fails to provide care for a patient and something awful happens due to HFP being unable to make or receive a phone call, there are terrible consequences.

On November 28, 2012, December 21, 2012, and January 10, 2013, staff forwarded the complaint to Huxley Communications Cooperative (Huxley Communications), Qwest Corporation d/b/a CenturyLink (CenturyLink) and Bluetone Communications, LLC. (Bluetone) for their responses.

Huxley Communications stated that since 2008 it has received four calls relating to static or calls being dropped for HFP. Huxley Communications also stated on each of the trouble calls it found the trouble to be with the HFP (customer-owned) key system (the hospital actual phone system) or a possible call completion issue. Huxley Communications stated the latest issues were researched by using the times Ms. Millette gave Huxley Communications. However, Huxley Communications stated that Ms. Millette only provided information about incoming intrastate calls that failed. Because the calls did not complete in Huxley Communications switch, it cannot determine where the calls failed. The following trouble tickets were received in 2012:

- January 25, 2012, line 2, 515-597-2600, rollover line, static and call cuts out. Resolved - Huxley Communications put new ends on the inside wiring and made sure they were not loose in the time slots on the fiber point. Huxley Communications tested the connection and found no trouble.
- February 13, 2012, line 2, same issue as identified in the January 25, 2012, complaint. Pulled on the line while set was on 66 block to make sure that all connections were not loose. Tested and found no static.
- February 22, 2012, phone is echoing and cutting in and out. Huxley Communications reset and cleaned all fiber and checked lines on the 66 block, but could not duplicate the problems.
- October 25, 2012, calls dropping, HFP stated the drops and static are when it rains or is wet outside. Huxley Communications checked to ensure no moisture was inside the demarcation point and utility room. No problem found.

On January 24, 2013, Huxley Communications updated its response to state that it performed additional testing with HFP's assistance. Huxley Communications noted it originally understood the problem to be with incoming or terminating calls. Huxley Communications stated while HFP logged and documented calls between January 3, 2013, and January 9, 2013, these were incoming calls. Huxley Communications further noted that nine calls between January 10, 2013, and January 15, 2013, encountered problems with static, echoing, and dropped calls. Huxley Communications indicated these issues were traced to Verizon, US

Cellular, CenturyLink, AT&T, and Cingular Wireless. In addition, Huxley Communications stated that according to HFP staff, some calls are made to HFP's office, but no one answers and HFP has no way of knowing who was calling. Huxley Communications concluded that while outgoing or originating calls are completed, it still considers this a call completion issue.

On January 9, 2013, CenturyLink responded stating that HFP alleged it was unable to receive calls and faxes from one of CenturyLink's customers, Mary Greeley Hospital in Ames, Iowa. CenturyLink provided the following information:

- Calling Telephone Number: 515 239-2011 (CenturyLink local TN and served by CenturyLink long distance) Mary Greeley Hospital
- Called Telephone Number: 515 597-2600 (Huxley Telephone Company local TN) HFP
 - Date/Time: The weekend of November 24 and 25, 2012, (this timing was factored based on the report provided by the IUB Staff email)
 - Problem: HFP indicates that they could not get faxed test results or calls from Mary Greeley Hospital.
 - HFP could not receive urgent test results from Mary Greeley Hospital as they could not get through HFP lines. HFP was experiencing fax issues and calls not getting through to the HFP answering service when HFP rolled them over after hours.

CenturyLink stated it received permission from Al Kole at Mary Greeley Hospital to release its customer account information. CenturyLink stated the technician opened a ticket to investigate the issue on behalf of Mary Greeley Hospital and no calls were found in CenturyLink's call detail records matching the cited call details. CenturyLink stated its technician made contact with Ms. Millette at HFP to inquire on the correct numbers involved and Ms. Millette advised that the terminating fax line at issue was actually 515-597-3945. CenturyLink stated that with that correction CenturyLink's technician investigated the trouble, the customer's long distance calling issues, and the call routing paths. The technician performed test calls and determined the problem to be related to the call routing. CenturyLink stated the underlying carrier used in the routing was Bluemile Networks (Bluemile) and CenturyLink subsequently removed Bluemile from the routing to the 515 597 NPA/NXX.

Further, CenturyLink stated its technician contacted Eric Eilers, Mary Greeley Hospital's technical person for telephone issues, to conduct additional test calls with him and Mr. Eilers did not have any problems with the faxes, and said if he did he will call CenturyLink repair. CenturyLink stated its technicians then conducted additional testing on its own and the CenturyLink network and the fax calls completed without any issues. CenturyLink stated it notified Bluemile of its action removing them from the routing table and is working with Bluemile to address this issue.

IUB staff sent the complaint to Bluemile on January 10, 2013, and Bluemile responded stating it changed its name to Bluetone.

On January 18, 2013, Bluetone responded stating it is a wholesale provider of telecommunication services to CenturyLink and does not receive trouble reports directly from CenturyLink end-users. Bluetone noted any trouble experienced by a CenturyLink end-user is reported directly to CenturyLink. Bluetone stated it investigated the complaint regarding the trouble HFP experienced on November 24, and 25, 2012, and found no trouble reports from CenturyLink regarding the telephone numbers in question. Bluetone stated it took no action regarding this matter during the weekend in question. According to Bluetone, CenturyLink, in its own determination, would decide whether or not to report such issues to Bluetone.

Additionally, Bluetone noted it did receive a trouble report from CenturyLink regarding fax number 515-597-3945, on January 13, 2013, for calls placed on December 17 and 19, 2012. Bluetone stated while it was unable to determine a definitive cause for the fax failure, it proactively rerouted the destination number to another vendor in order to provide an alternate route for call completion.

Staff issued a proposed resolution on February 21, 2013. Staff noted in a conversation with Huxley Communications on December 19, 2012, Huxley Communications stated that it does not have any records to investigate for calls that do not complete. Huxley Communications can only work with the records for calls that do complete.

Based on the record in this case, Bluetone is the underlying or wholesale carrier for CenturyLink and according to CenturyLink's records, once Bluetone was removed from Mary Greeley Hospital's call route, calls and faxes completed without issue.

Staff found that changing the underlying carrier resolved this matter. Staff suggested that if Ms. Millette finds that phone calls and faxes to HFP are not completing, she should ask the person calling or sending the fax to contact their telephone provider and file a complaint with the IUB.

On March 7, 2013, OCA filed a petition for further investigation. According to OCA, the "problems reported by the HFP are not unique to the HFP" and are occurring with sufficient frequency and affecting a sufficient number of rural consumers to justify an investigation. In support, OCA cites three other complaints with the IUB. OCA also refers to the Federal Communications Commission's (FCC) February 2012 declaratory ruling, which identified a pattern of call completion and service quality problems with long distance calls to rural areas; National Association of Regulatory Utility Commissioners' (NARUC) July 2012 resolution, which described call completion failure rates being 13 times

higher in rural areas than in non-rural areas and noted that rural call termination issues persisted; a November 2012 press release of the National Exchange Carriers Association, which described the call completion problem as a “mounting epidemic”; and the FCC's February 2013 notice of proposed rulemaking in which the FCC refers to a suggestion by associations of rural carriers that call completion problems may relate to call signaling and routing practices and that “call routing and termination problems can be attributed to intermediate providers,” quoting the FCC's Notice of Proposed Rulemaking, *Rural Call Completion*, FCC 13-18, WC Docket No. 13-39 (Feb. 7, 2013) ¶ 2 (OCA Request for Formal Proceeding, pp. 4-5, ¶12.)

OCA further states:

As observed in the FCC's declaratory ruling, the call completion problems can have dire consequences. Small businesses can lose customers who get frustrated when their calls don't go through. Urgent calls from friends and families can be missed. Schools may be unable to reach parents with critical alerts. Those in need of help may be unable to reach public safety officials. In addition, as here, health care facilities may be left without an ability to provide the care their patients need due to the failure of calls and faxes from one facility to another. As stated by both U.S. senators from Iowa, and 34 of their colleagues, “[w]e . . . worry it is only a matter of time before this situation leads to tragedy.”

(OCA Request for Formal Proceeding, pp. 6-7, ¶ 13.)

OCA notes that in its July 2012 resolution, NARUC observes:

“[i]t appears that some carriers are not taking the declaratory ruling seriously.” NARUC continues: “[t]he call termination issues seem unlikely to be resolved unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought by originating carriers faces serious consequences for such failures.”

(OCA Request for Formal Proceeding, p. 7, ¶ 14.)

OCA contends that in this case the file raises more questions than it answers and leaves the Board not much closer to understanding who and what caused the difficulties experienced by the HFC than was the case on the day the complaint was filed.

With respect to the calls and faxes from Mary Greeley Medical Center, OCA states that CenturyLink advises that the problem was related to the call routing and that in removing Bluetone as the underlying carrier, it solved the problem. OCA states that while CenturyLink explains it is working with Bluetone to address the issue, CenturyLink does not explain what caused the problem or what the issue is. OCA also states that Bluetone has stated that it has not been able to determine a definitive cause for the failure and has re-routed the destination number to another vendor. It does not identify either the earlier or the later vendor. (OCA Request for Formal Proceeding, p. 7, ¶¶ 16-17.)

OCA maintains investigation is needed regarding the routing of the calls, the changes made to the routing, and the reasons why CenturyLink and Bluetone decided re-routing would improve the likelihood that the calls would complete. Investigation of these and related issues will likely help explain not only what was causing the problem for the Huxley clinic but also what has been causing the same problem at other rural call destinations. (OCA Request for Formal Proceeding, pp. 7-8, ¶ 18.)

Investigation is needed regarding the performance requirements, metrics and standards imposed by CenturyLink and Bluetone on other companies that are carrying the traffic, in order to ensure that attempted calls complete. (OCA Request for Formal Proceeding, p. 8, ¶ 19.)

OCA contends that correcting a problem by re-routing after calls have failed to complete and after an adversely affected party complains is not a full or adequate solution. According to OCA, what is needed is an understanding of the cause of the problem and tools with which to prevent it before it occurs. (OCA Request for Formal Proceeding, p. 8, ¶ 20.)

OCA further states that the problems experienced by the HFP have not been limited to calls originating at Mary Greeley Medical Center. OCA notes that in its discussions with HFP on March 5, 2013, the clinic advised it is not satisfied that the call completion problem has been resolved with respect to callers other than Mary Greeley. On the contrary, HFP told OCA that it learns almost daily of a previous call or fax that it was supposed to receive, but did not receive. (OCA Request for Formal Proceeding, p. 8, ¶ 21.)

According to the letter dated January 24, 2013, from Huxley Communications, during a six-day test period in January 2013, nine calls from callers other than Mary Greeley were logged with static, echoing and drops. OCA notes that according to its discussion with Huxley Communications, these calls were initially completed to its switch, so it is possible, based on dates and times provided by HFP, to ascertain the probable identity of the parties who placed the calls. As indicated in the letter, these calls apparently involved five different originating long distance carriers. OCA states an investigation concerning these calls may

well provide further insights into the cause of the problem and help identify a solution. (OCA Request for Formal Proceeding, pp. 8-9, ¶¶ 21-22.)

OCA acknowledges that the FCC plays a “central role nationally in resolving the problem long-term” (OCA Request for Formal Proceeding, p. 9, ¶ 23), but argues there is an appropriate state role in responding to the problem. OCA stresses that the Board is more familiar than the FCC with Iowa's geography and providers, and has an interest in ensuring that calls are completed to rural destinations in Iowa and in preventing further decline in the quality of service provided in rural Iowa. Looking ahead, OCA states that further investigation by the Board could uncover violations of the FCC's rules, which could be reported to the FCC with a request for enforcement. OCA suggests that the FCC might be more likely to act upon the results of a Board investigation (which would serve to develop the information presently missing in this case and resolve conflicts in the information). (OCA Request for Formal Proceeding, pp. 9-10, ¶¶ 24-25.)

Finally, OCA asserts that the Board has authority over the delivery of intrastate telecommunications services. OCA suggests that Board investigation could reveal remedial or enforcement tools already at the Board's disposal or could show a need for new law(s) or regulations. OCA emphasizes the seriousness of the call completion problem:

The failure of calls and faxes to complete affects the health, safety and welfare of Iowans. Calls for help may not be answered, and in this case a physician clinic was apparently unable to communicate with nearby hospital on patient needs.

An investigation will materially enhance the ability of the Board and its staff to participate on a well informed basis in ongoing workshops designed to assess the problem and effect a solution.

An investigation will materially contribute to solving the problem, because carriers will know they are being watched, with a view toward enforcement when needed.

(OCA Request for Formal Proceeding, pp. 10-11, ¶¶ 26-29.)

On March 21, 2013, CenturyLink responded to OCA's request for formal proceeding. CenturyLink does not believe a formal proceeding is necessary. According to CenturyLink, the primary complaint in this matter alleges facts pertaining to the failure of faxes to complete to the HFP from the Mary Greeley Hospital on the weekend of November 24, 2012. CenturyLink states it has completed its investigation in this matter and found the issues were caused by the underlying carrier. CenturyLink further states it took steps to remove this carrier from the call routing and subsequent tests have shown that calls and faxes are now accurately completing to the HFP.

According to CenturyLink the OCA's request for a formal investigation into this singular complaint discusses the industry-wide problem of rural call completion and names a number of carriers, in addition to CenturyLink, that are allegedly causing call completion problems to the HFP. CenturyLink suggests that the OCA wants to broaden the basis of the original complaint to conduct investigations into the broader issue of rural call completion in the state of Iowa. CenturyLink states it continues to believe that the FCC is adequately addressing the larger issue with the adoption of rules governing the requirements for call completion and call quality and any further action by the Board is unnecessary especially in light of the FCC's release of an additional Notice of Proposed Rule Making (NPRM) regarding call completion/call quality issues to address continuing problems in this area.

CenturyLink maintains it has conducted a full investigation of the alleged call completion issues and has concluded that problems with the fax communications from Mary Greeley Hospital to the HFP were caused by issues with the underlying carrier. CenturyLink notes its practice to name underlying carriers found to be at fault, and CenturyLink identified Bluetone as the carrier. CenturyLink further maintains it has since removed Bluetone from the call routing to the 515/597 NPA/NXX in Huxley and has conducted subsequent testing which shows that fax calls have completed without any additional problems. CenturyLink contends that it notified the underlying carrier, Bluetone, of its action in removing them from the route and is working with them to address this issue.

CenturyLink states it has a vigorous process for addressing any call completion issues and it believes it has a duty to its customers to provide adequate service. CenturyLink states it will follow up on any issues raised in the future by its customers regarding the performance of their long distance service. Also, CenturyLink is willing to work with the Mary Greeley Hospital and HFP to conduct additional testing should they so desire.

II. Legal Standards

FCC Action

The OCA refers to the declaratory ruling issued by the FCC in February of 2012. In 2011, the FCC created a Rural Call Completion Task Force to investigate and address the problem of calls to rural customers which are delayed or fail to connect. The Task Force held a workshop on this issue in October of 2011, and in February 2012, the FCC issued a Declaratory Ruling responding to the issues. The FCC explained it was issuing the ruling in response to requests for action and in response to evidence showing "a pattern of call completion and service quality problems on long distance calls to certain rural areas." The FCC intended "to clarify the scope of the Commission's prohibition on blocking, choking, reducing or restricting telephone traffic." *In the Matter of Developing and Unified*

Intercarrier Compensation Regime, CC Docket No. 01-92, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135 (Rel. Feb. 6, 2012), "Declaratory Ruling," 27 FCC Rcd. 1351. The FCC clarified that its prohibition against blocking, choking, reducing or restricting telephone traffic extends to routing practices that have the effect of blocking, choking, etc. (Declaratory Ruling, ¶ 3.) The FCC also clarified that such practices may constitute unjust and unreasonable practices in violation of section 201 of the Communications Act of 1934, as amended (the Act), and/or may violate a carrier's duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. (Declaratory Ruling, ¶ 4.) Finally, the FCC emphasized that carriers are responsible for the actions of their agents or other persons acting for or employed by the carriers, i.e., underlying providers. (Declaratory Ruling, ¶¶ 4, 15.)

The FCC explained that it can take appropriate enforcement action pursuant to its statutory authority, including cease-and-desist orders, forfeitures, and license revocations, against carriers engaging in the prohibited activities discussed in the Declaratory Ruling.

CenturyLink and OCA refer to the FCC's most recent NPRM intended to deal with the call completion issue. On February 7, 2013, the FCC released the NPRM. In re: Rural Call Completion, WC Docket No. 13-39, FCC 13-18 (Call Completion NPRM). The FCC seeks comment on rules to help address problems in completion of long-distance calls to rural customers. Comments are due May 13, 2013. The FCC mentions evidence that retail long-distance providers may not be adequately examining the rural call completion performance that results from use of wholesale call delivery services by intermediate providers employed by the long-distance providers. The FCC intends to "consider measures to improve the Commission's ability to monitor the delivery of long-distance calls to rural areas and aid enforcement action." (Call Completion NPRM, ¶ 3.)

Noting a problem with a lack of data that impedes investigations (NPRM, ¶ 17), the FCC seeks comment on reporting and data retention requirements that would give the Commission information about a long distance provider's performance to certain areas. The FCC proposes to adopt rules that would require originating long-distance voice service providers to collect and retain basic information on call attempts and to periodically analyze and summarize call completion and report the results to the Commission." (¶ 17.)

The agency also seeks comment on how the burden of compliance with the rules can be minimized, "particularly for originating providers whose call-routing practices do not appear to cause significant call completion problems." (Call Completion NPRM, ¶ 3.)

In the NPRM, the FCC reviews the steps it has taken so far in response to the call completion problem. The FCC states it is conducting ongoing investigations of several long-distance providers and addressing daily operational problems reported by rural customers. (¶ 11.) The FCC describes the Web-based complaint intake process which allows rural customers and carriers to alert the Commission about call completion problems and instructs them on how to file complaints.

NARUC representatives recently sent a letter dated February 11, 2013, to the FCC urging the agency to take immediate action against carriers acting contrary to the FCC call completion Declaratory Order. NARUC observes that since the FCC issued the Declaratory Order, the agency has not issued any cease-and-desist orders, forfeitures, license revocations, or fines. The letter notes that "it is not unreasonable to expect enforcement activity in the face of continued and arguably increasing problems." However, since NARUC made the statement about the FCC's enforcement activity, the FCC has taken action against a carrier in a call completion complaint. On March 12, 2013, the FCC announced that it had reached a settlement with Level 3 Communications, LLC, resolving an investigation into the company's rural call completion practices. The settlement includes call completion standards and a voluntary contribution to the U.S. Treasury in the amount of \$975,000.

III. Analysis

Iowa Code § 476.3(1) provides that a public utility shall furnish "reasonably adequate service" in accordance with tariffs filed with the Board. That section also provides, in relevant part, that when Consumer Advocate files a petition for formal proceeding with the Board, the Board shall grant the petition if the Board determines that "there is any reasonable ground for investigating the complaint." Reasonable grounds for further investigation exist when the Board has received multiple complaints against a single company regarding the same subject matter in a relatively short time frame and there are numerous unanswered questions regarding the precise circumstances of this complaint. (Presently, staff is working on four other informal complaints involving CenturyLink in which call completion problems are alleged. Also, one complaint involving CenturyLink is the subject of formal proceeding. Docket No. FCU-2012-0019)

Staff believes there are sufficient grounds to open a docket to conduct further investigation into this particular complaint which involves allegations that calls and faxes from a hospital to a physicians' clinic did not complete, a scenario which presents a potential for serious consequences if calls do not complete. Staff agrees with OCA that the responses from CenturyLink and Bluetone have not answered all of the questions that the case presents. Staff does not believe that the record to date provides enough specific information for staff and the Board to fully understand what caused the failure in the first instance and steps taken by the various providers to prevent recurrence of the alleged completion

problems. Staff anticipates that further investigation will allow the Board to better understand whether carriers in this particular case have adequately responded to the call completion problems at issue.

Docketing the complaint for further investigation would enable the Board to gather more specific information about CenturyLink's use of (and standards for) underlying carriers and extent to which use of certain underlying carriers and routing practices have contributed to call completion problems. As OCA noted, CenturyLink states it is working with Bluetone to address the issue presented in this case, but does not offer any specifics about its process or the issue. Likewise, more information may be available from Bluetone about the cause of the call failure alleged in this case.

IV. Recommendation

Staff recommends that the Board grant OCA's petition for formal proceeding and assign the case to the Administrative Law Judge.

RECOMMENDATION APPROVED

IOWA UTILITIES BOARD

/tgp

/s/ Elizabeth S. Jacobs 4-29-13
Date

/s/ Swati A. Dandekar 4-30-13
Date

Date

cc: